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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,360	11/17/2003	Bret E. Barnes	111303	1818

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,360

Applicant(s)

BARNES, BRET E.

Examiner

Frank Vanaman

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 8-10, 16, 17, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 7, 11-15 and 21-24 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because of the following informalities: they include the following reference character(s) not mentioned in the description: reference numeral 63.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tip portions being attached to a rider disposed about an adjustment screw located within the support arms and a portion of the rider being disposed within a slot in the support arm (claims 23, 24), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because of the following informalities: the abstract includes redundant language such as "Provided herein" (line 1 of the abstract text) and "according to the invention" (line 6 of the abstract text), which should be removed. Correction is required. See MPEP § 608.01(b).

Claim Objections

5. Claims 13 and 18 are objected to because of the following informalities: in claim 13, line 2, the claim should end with a period; in claim 18, the last line, the comma should be replaced with a period (-.-.-). Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. Claims 7 and 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 7, the recitation of the intersection of the "substantially horizontal" and "substantially vertical" planes being at an angle of between 60 and 120 degrees appears inconsistent, inasmuch as the intersection of "substantially horizontal" and "substantially vertical" elements would be expected to be "substantially orthogonal" or substantially 90 degrees. In claim 11 and claims dependent therefrom, the recitation of a fourth support arm without the recitation of a third support arm (note that claim 11 is written to depend from claim 9, not claim 10) is confusing; in claim 12, the recitation of a third support arm lacks a clear antecedent basis - in general it appears as though claim 11 is intended to be dependent from claim 10, and will be interpreted in that manner for the purpose of this office action.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Marques (US 6,113,129). Marques teaches a hand truck having a horizontal portion (30) a vertical portion (20) having linear structural elements, a plurality of support arms (40) extending from the elements, having outer ends (41) and tip portions (45) as well as means for varying the arm length (46, 47) wherein the arms are comprised of inner and outer portions slidably connected to one another (44, 43).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(cont'd, over)

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marques (cited above) in view of Carruthers (US 2,380,415). The reference to Marques is discussed above and fails to teach the provision of the tip portions connected to a rider disposed about an adjustment screw transversing the length of the arm. Carruthers teaches a pair of tubular elements (8, 9) which make up an arm, including a rider (12) in one element which is disposed about an adjustment screw (11) which extends the length of the arm in a telescopically retracted condition. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the telescopic arms of Marques with the threaded adjustment arrangement taught by Carruthers for the purpose of achieving greater resolution in the adjustment of arm length, thus facilitating the accommodation of articles having a greater range of sizes.

10. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marques in view of Carruthers and McCarty (US 3,204,975). The references to Marques and Carruthers are discussed above and fail to teach a portion of the rider being positioned in a slot extending substantially the length of the arm. McCarty teaches a telescopically adjustable arm construction wherein an angular relationship is maintained between the telescoping members (3, 4) by a rider portion (6) which extends through a slot (5). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the rider and tube taught by the combined references to Marques and Carruthers with a mating pin and slot arrangement as taught by McCarty, for the purpose of preventing displacement out of axis, and thus preventing cocking of the two telescoping members while being adjusted.

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Allowable Subject Matter

11. Claims 1-6, 8-10, and 16-20 are allowed. Claim 18 is objected to for a minor informality, but would otherwise be allowable.
12. Claims 7 and 11-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Phillips (US 5,120,183), Abrams (US 5,348,325), Cox (US 6,109,644), Irwin (US 6,135,466), Simpson (US 6,474,930), Raichlen (US 6,540,242), and Gregory (US 6,685,214) teach cart structures of pertinence.
14. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618

Handwritten signature of F. Vanaman, dated 4/17/03.